

STANDARD OPERATING PROCEDURE FOR THE PROCESSING OF A RECORD OF ENVIRONMENTAL CONSIDERATION AND CHECKLIST

ARNG-ILE-T

October 13, 2011

1-1 INTRODUCTION:

A categorical exclusion (CX) is an action adopted by a federal agency that does not have significant effects on the human or natural environment and does not require an Environmental Assessment (EA) or an Environmental Impact Statement (EIS). A Record of Environmental Consideration (REC) is a signed statement that must be submitted with project documentation to show the environment has been considered in project planning for which no separate EA or EIS is prepared. The REC and Checklist will be referred to as the REC and Check throughout this document.

The use of certain CXs required preparation of a REC and Check by completion of a checklist of environmental questions (see 32 CFR § 651.29). This checklist is intended to reduce costs and paperwork while providing a mechanism to ensure the consideration of potential environmental effects. The REC and Check must conclude that the action (1) is exempt from NEPA, (2) is already covered in an existing EA or EIS and determined not to be environmentally significant or (3) qualifies for a CX.

A REC and Check is usually prepared at the state level by the proponent. It is the responsibility of the state environmental office to assist the proponent in completion of the REC and Check. States are encouraged to use the environmental checklist for reviewing all proposed actions but only certain actions actually require completion of the Checklist.

RECs and Checklists must be submitted to ARNG Directorate for review and concurrence when the action involves any of the following (with the appropriate reviewing ARNG Directorate Division listed):

- ✓ Military Construction (ARNG-ILI; Installations Division and ARNG-TR; Training Division, as appropriate).
- ✓ Federal Real Property Actions (ARNG-ILI).
- ✓ Innovative Readiness Training (ARNG-OD; Operations Division).
- ✓ Environmental Management Plans (ARNG-ILE).
- ✓ Federal Agriculture/Forestry Actions (ARNG-ILE and ARNG-ILI).

Typically, ARNG Directorate requires up to 45 days to review and concur with a state ARNG-submitted REC/CHECK for the above types of Proposed Actions, although this review may be as few as 2 days. ***For these types of Proposed Actions, the REC/CHECK must be reviewed and concurred with by ARNG Directorate prior to***

initiating the action. Although these RECs/CHECKs are signed by the state ARNG EPM and the proponent, ARNG Directorate has final review and concurrence authority.

The RECs for other Proposed Actions (i.e., those not requiring ARNG Directorate review and concurrence) that are of a Federal nature and are covered under one or more of the CXs described in 32 CFR Part 651 *should be maintained in the state ARNG's files*. The checklist is not required for RECs completed and kept at the State. The ARNG NEPA handbook volume two, section 5.4 provides guidance on REC submissions to ARNG-ILE.

Once complete a REC and Check is forwarded to the appropriate Program Manager at ILE-T where it is reviewed for completeness and accuracy. Additional changes, if required, are coordinated with the state. Once concurrence is secured an approval memo is created stating the REC is the appropriate level of NEPA and that NEPA for the action is complete. If an Environmental Condition of Property (ECOP) report is required for the action addressed in the REC, the ECOP report will have to be completed prior to the REC.

2-1 PURPOSE

This Standard Operating Procedure (SOP) documents the steps taken to process the REC and Check once it reaches ILE-T. Appendix A provides definition, clarification and instructions on completing the questions in the REC and Check.

3-1 REFERENCES

- 32 CFR Part 651, Environmental Analysis of Army Actions, March 2002
- The National Guard Bureau NEPA Handbook Volumes I-III, October 2011
- AR 200-1, Army Regulations , Environmental Protection and Enhancement, December 2007
- 40 CFR Part 1500-1508, Council on Environmental Quality Regulations for Implementing the Procedural Provisions of NEPA

4-1 PROCEDURES

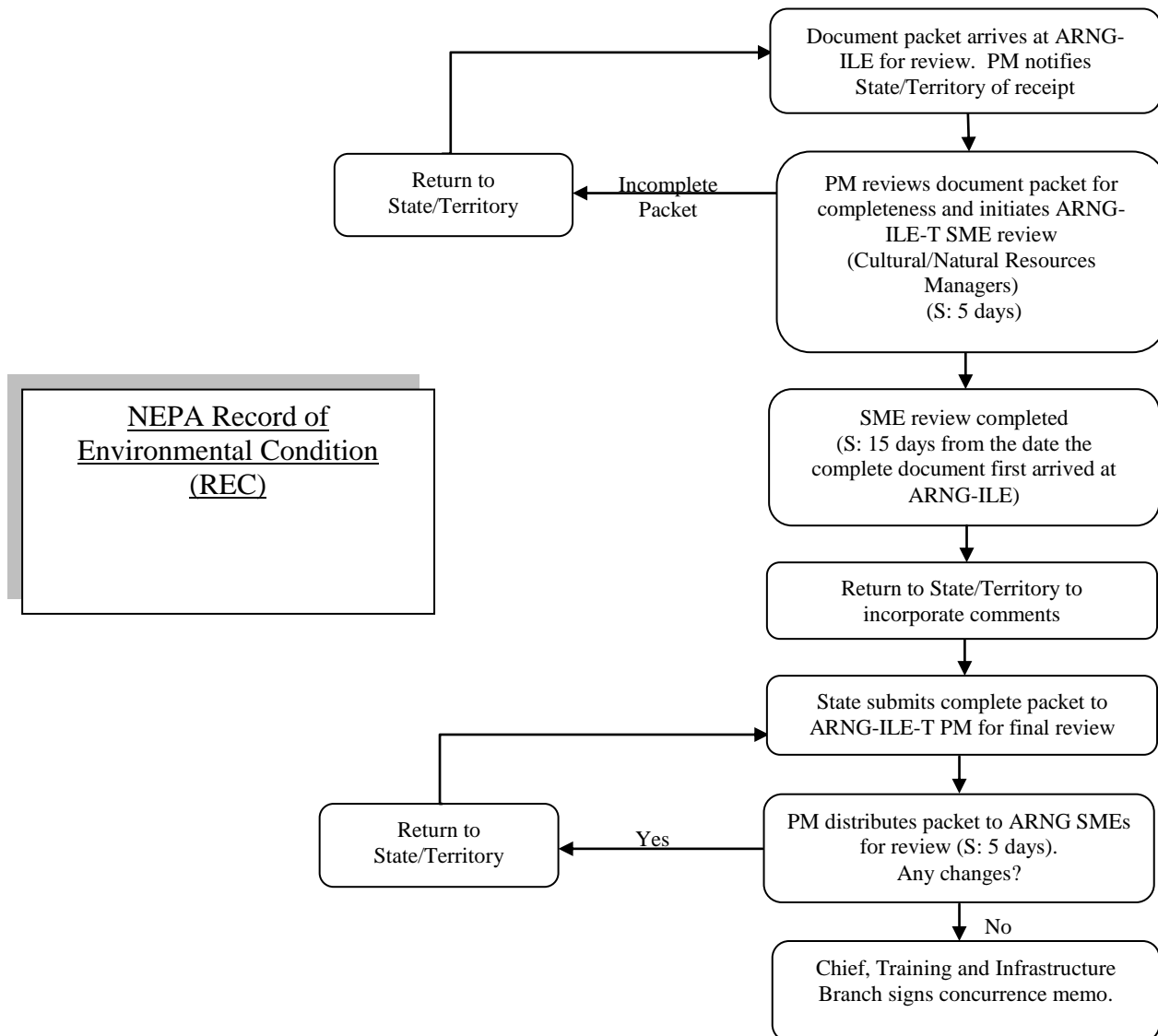
NEPA program managers should receive one copy of the REC and Check (electronic copy preferred) and all supporting documents from the proponent state.

a. The ILE-T PM receives the complete REC packet, and logs the date it was received into the appropriate document tracker.

b. The ILE-T PM notifies the State POC within five days that the packet was received and if any items are missing. Once the PM has accepted a complete packet, the 15-day Initial Review cycle begins and the PM notifies the State POC of the date the State can expect the fully staffed packet to be returned.

- c. If needed the PM initiates SME review, which includes, at a minimum, Cultural and Natural Resources PMs; other ILE SMEs are added as necessary.
- d. The ILE-T PM monitors progress to ensure the SME review is completed within 15 days. If the document review cannot occur within the 15-day period, the PM will notify the State, and negotiate a new completion date with the State POC.
- e. After SME review is completed, the ILE-T PM will submit any comments made by ILE-T SME reviewers to the State via email to address. If SME review is not needed the ILE-T PM will submit any comments to the State via email to address.
- f. After the State has addressed any comments made, the document will be resubmitted to ILE-T. The ILE-T PM will afford the ILE-T SMEs the chance to review the document to ensure comments have been adequately addressed. Concurrence from ILE SMEs will be sent in writing (through email) to the ILE-T PM within five days.
- g. The ILE-T PM will prepare the concurrence memo to be signed by the Chief, Training and Infrastructure Branch.
- h. If the REC has an associated ECOP, the ECOP review process applies.

Diagram of the REC review procedure.



Appendix A

Description of REC and Checklist

The checklist is designed for several purposes. First it will help the proponent discover the appropriate level of NEPA (CAT EX vs EA). Second, if a CAT EX is the appropriate level of NEPA the checklist will provide documentation for ESA Section 7 compliance, National Historic Preservation Act (NHPA) and Section 106 compliance and Native American consultation. It is highly encouraged to use the checklist to determine if the proposed action qualifies for a categorical exclusion or environmental assessment.

The Record of Environmental Consideration (REC) serves as documentation of NEPA compliance at the categorical exclusion level. All RECs sent to ARNG-ILE for concurrence need to have the checklist attached. The checklist is not required for RECs completed and kept at the State. The ARNG NEPA handbook volume two, section 5.4 provides guidance on REC submissions to ARNG-ILE.

Header

The environmental tracking number is optional, for state internal use only.

Part A, Project Information

Project name should be a unique descriptor of the project which includes action and location (i.e. stateARNG, Fort XYZ, Lease Renewal for Building A).

Project number is primarily used for military construction (MILCON) projects. This block must include the MILCON number, found on 1390/91.

Date prepared is the date the checklist was created, not the project date.

Include a complete and concise description and location of the project including all aspects of the action. For MILCON projects you can find this information on the 1390/91. A map is required if applicable. If additional space is required to complete the project description please attach the expanded description to the checklist.

If applicable, include the project size and acres of new surface disturbance. See question five on page 7 of this SOP for definition of new surface disturbance.

State date of the proposed action should be a future date as NEPA is required to be completed in advance of project execution. If project funding is tied to a specific fiscal year, like MILCON, list the year.

Part B – Decision Analysis

Question #1

Please refer to the NEPA Handbook Volume II (2011), Section 5.1.1.1 for a discussion of segmentation. Splitting an action into several smaller actions and analyzing them individually to avoid preparing a higher level of NEPA documentation is considered “segmentation.” Segmenting is prohibited because the significance of the environmental effects of an action as a whole might not be evident if the action is broken into its component parts, and the effects of those parts are analyzed separately.

An example of segmentation is when the proponent is receiving a new aircraft and submits four separate NEPA documents (RECs) for the fielding, stationing, operation and associated MILCON (AASF) of the aircraft.

Question #2

This is a general question screening out projects that will have a significant impact to the environment. Examples of actions that may cause significant environmental effects include changes to established installation land use, changes to the use of training land, substantial increases in training or significant training on land not previously designated as such. Construction of a new range with surface disturbance greater than five acres on land not previously disturbed may also cause significant environmental effects. If looking at the direct, indirect and cumulative impacts of the project one might encounter significant impacts an Environmental Assessment (EA) will be required. Typical projects this screening criteria filter out are installation master plans, construction of a range complex, training area development or natural resource activities not covered under an Integrated Natural Resource Management Plan (INRMP) EA.

Question #3

Examples of significant effects on public health, safety or the environment include use of pesticides or herbicides not covered in a programmatic agreement or existing EA, range safety fans, surface danger zones or noise contours extending outside the installation boundary.

Question #4

Examples of uncertain or unique environmental risks include those addressed in future planning documents. Typical projects this screening criteria filter out are development of installation master plans, integrated natural resource management plans, integrated pest management plans, integrated cultural resource management plans and forest management plans. Another example relates to equipment. An EA is required when a modification is made to an item that changes the original impact of the item on the environment (like a fleet-wide vehicle modification allowing off-road use). Fire management plans, range complex master plans and Army compatible use buffers are current-use planning documents and are not normally screened-out by this criterion.

Question #5

Examples of projects greater in scope or size normal for the category of action include land acquisitions with substantial land use change or land acquisitions in excess of 40 acres. Also included are significant changes to land use associated with a lease or license renewal and disposal of real property where the foreseeable use will change significantly.

Construction projects that clear more than 5.0 cumulative acres on land not previously disturbed is another example of projects greater in scope or size than normal for the category (construction). The ARNG has recently revised the interpretation of previously distributed land. The term “disturbance” means disturbance caused directly or indirectly by human activities. The term “previous” refers to a period of time generally understood to consist of the previous 100 years. Previous disturbances include, but are not limited to, the following activities:

- Agricultural activities (e.g., farming, logging)
- Topographic changes (e.g., grading, cut-and-fill, landfill);
- Construction (e.g., installation of structures or facilities);
- Subsurface disturbance (mining, drilling);
- Changes in hydrology (e.g., water impoundments, drained wetlands); and
- Previous military activities (e.g., weapons testing);

Previous disturbance must be determined using historic documents or photographs, or be inferable from existing site conditions. Prior disturbance does not imply that a site does not contain other resources or environmental conditions that must be considered in the environmental review process. This definition addresses only whether a property has been previously disturbed. It does not pertain to disturbance related to NHPA Section 106 compliance.

Major military construction (MILCON) is another example of projects greater in scope or size normal for the category. Typical major MILCON projects this screening criteria filter out - and therefore require an EA - are construction of new readiness centers, a regional training institute, an Army aviation support facility, an organizational maintenance shop, combined support maintenance shops or field maintenance shops. It also typically screens out construction of mobilization and equipment training sites, wastewater treatment facilities, demolition, bridge replacements, cantonment area expansions and dining facilities. These are only typical examples, each project must be assessed individually.

Question #6

Relates to unproven technology like military testing activities.

Question #7

Relates to reportable releases of hazardous or toxic substances, see 40 CFR Part 302.

Question #8

If action does not exceed de minimus levels or otherwise require a formal Clean Air Act conformity determination ensure the RONA is complete and on-file at the State.

Question #9

Examples of a project having effects on the quality of the environment likely to be highly controversial include airspace use changes, new or changes to aircraft use or substantial increases in noise or traffic. Typical projects this screening criteria filter out are new or changes to flight operations, real estate disposal actions (not lease expiration), and major construction in urban centers.

Question #10

An example of projects which establish precedents reasonably likely to have future significant effects include the introduction, training and use of new equipment within an installation (major end items) or enhanced use lease agreements. Typical projects this screening criteria filter out are major end-item fieldings such as tactical unmanned aerial systems, high mobility artillery rocket systems, Lakota helicopters, mine resistant ambush protected vehicles or Spartan aircraft (unless covered in an EA).

Question #11

If the Innovative Readiness Training (IRT) project has not been approved and federal funding has not been secured the NEPA documentation can move forward by checking NO and moving to question twelve.

Question #12

Follow-up surveys to support natural and cultural requirements shall be completed by proponent, with proponent funding, once Federal monies are approved for the IRT project. Contact your NEPA program manager for additional guidance on completion of natural and cultural surveys.

Question #13

The U.S. Fish and Wildlife (USFWS) species list must be less than 90-days old from the current date. Species lists can be obtained from the following web site:

<http://www.fws.gov/endangered/>

Question #14

The State ARNG makes this determination.

Question #15

Examine proposed action and adverse affect to see if it's covered under an existing biological opinion.

Question #16

Date of documentation required.

Additional information on endangered species act compliance can be found in ARNG-ILE Memorandum "Endangered Species Act Compliance and National Environmental Policy Act Documentation" dated 10 JUN11.

Question #17

An undertaking is defined very broad and includes any alteration or action executed with Federal funding. For more information see the National Historic Preservation Act, Section 106, § 800.16y. Typical actions include renovation or repair work (i.e. window replacement, roof replacement, guttering, tuck-pointing, ect.), demolition or altering a viewshed.

Question #18

This is a question requiring a survey in support of the National Register of Historic Places (NRHP).

Question #19

This is a question about NRHP eligibility.

Question #20

Ground disturbing activities include any ground disturbance, even if previously disturbed.

Question #21

The area affected by ground disturbance must be evaluated for NRHP-eligible archaeological sites. The surveys completed in an area can be done several years before actual action under review within the REC.

Question #22

Date of State Historic Preservation Officer concurrence required for “no properties affected” and “no adverse affect”

Question #23

If adverse affect has been addressed enter date of memorandum of agreement or programmatic agreement and describe mitigation.

Question #24

Tribal consultation is required for actions that meet the criteria for an undertaking as defined in question #17 (if federally recognized tribes have interest in the state/installation). Consultation with tribes for the creation of ICRMPs and/or INRMPs or previous EAs is not considered sufficient. Consultation is only required with federally recognized tribes with an interest in the project area.

Question #25

Provide date of documentation if tribes did not express an interest in the project area.

Question #26

Enter date of memorandum of understanding or explanation of how tribal concerns were addressed.

For more information on National Historic Preservation Act, Section 106 requirements for NEPA please see NGB-ARE-C Memorandum, Subject: NHPA Section 106 Requirements for NEPA REC forms, dated 18 MAR 2009. *NOTE: this memorandum was prepared in support of the old REC form and should be used for clarification of terminology or procedures. Disregard requirements in the memorandum regarding attaching specific documents to the REC form. New guidance is being developed.*

Question #27

Review areas A-H to see if the proposed action has any potential effect. If it does but can be resolved via redesign, mitigation or avoidance please briefly describe the resolution in box 27a.

Question #28

If the EA was completed by a non-DoD agency (Bureau of Land Management, State Department, ect..) please include a copy of the FNSI.

Question #29

If applicable, please list the primary CAT EX and describe why it applies.

Question #30

Please call your NEPA PM if you disagree with the findings of the Checklist.

Part C – Determination

Part C is where the decision determining the appropriate level of NEPA is documented. Ensure the correct box is checked to identify the appropriate level of NEPA. See Appendix B of 32 CFR 651 for a list of categorical exclusions that require a REC. Not all RECs are required to be sent to ILE-T for concurrence. Actions that will have significant impacts to the human or natural environment will require an EA or an EIS.

Check to ensure all appropriate signatures and dates have been secured. At a minimum the proponent and Environmental Program Manager must sign.

ARNG REC

This page documents an ARNG action has received environmental review. Ensure all fields have been completed correctly and all appropriate signatures gathered. Some sections will automatically populate from data entered in Part A, Project Description.

Select the NEPA document that will cover the action addressed in the REC. If you are tiering off an EA or EIS check the appropriate box and list the document date. Be sure to attach the FNSI or ROA if tiering off a NEPA document prepared outside the DoD.